IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(1) C.W.P. No. 11810 of 2007

Madan Lal.

..... Petitioner through Shri Gurminder Singh, Advocate.

Versus

Food Corporation of India and another.

.....Respondent no.1 through Shri D.V.Sharma, Senior Advocate with Mrs. Sushma Chopra and Shri Deepak Bhardwaj, Advocates.

Respondent no.2 through Shri Mohan Jain, Senior Advocate with Shri Dinesh Thakur, Advocate.

(2) C.W.P. No. 11810 of 2007

Ram Parkash.

..... Petitioner through Shri Gurminder Singh, Advocate.

Versus

Food Corporation of India and another.

.....Respondent no.1 through Shri D.V.Sharma, Senior Advocate with Mrs. Sushma Chopra and Shri Deepak Bhardwaj, Advocates.

Respondent no.2 through Shri Mohan Jain, Senior Advocate with Shri Dinesh Thakur, Advocate.

Date of Decision: 11.12.2007

....

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

....

VIJENDER JAIN, CHIEF JUSTICE

This judgment will dispose of the above mentioned two writ petitions as common questions of facts and law are involved therein.

The petitioners have prayed for issuance of a writ in the nature of certiorari to quash the action of respondent no.1-Food Corporation of India (hereinafter described as `the Corporation') whereby the tenders for Handling and Transport contract for Apra and Goraya Centers have been finalized in favour of respondent no.2 at a much higher price than offered by them. A direction has also been sought to restrain the Corporation from issuing the letter of award of contracts in favour of respondent no.2. Still further, the petitioners have prayed that a writ of mandamus may be issued directing the Corporation to award the aforesaid contracts in their favour being the lowest bidders.

The Corporation published a tender notice on 28.4.2007 for appointment of Handling and Transport Contractors for different centers in Punjab including Apra and Goraya Center. In response thereto, the petitioners, respondent no.2 and others submitted their bids along with the

requisite earnest money for Apra and Goraya Centers. The petitioners have alleged that in utter disregard to the process of tendering, the Corporation granted the contracts for Apra and Goraya Centers in favour of respondent no.2 even though he had quoted much higher rates. Besides, they have alleged a number of procedural mal-practices which were indulged into by the officials of the Corporation while awarding the contracts to respondent no.2.

On notice being issued, the respondents submitted their separate written statements. It has been averred that the petitioners are benami tenderers, who were operating at the behest of one Shri Darshan Lal, who has been managing tenders being floated by the Corporation at several places. They have pointed out that the modus operandi was to finance the tender process by providing earnest money to various fictitious bidders and even in the instant cases, the amounts of earnest money of Rs.3,00,000/- and Rs.1,46,000/- were arranged by the said Darshan Lal as the drafts were got prepared on the same day from the account of his son-Sanjeev Kumar, which was with Oriental Bank of Commerce, Phillaur. Even the drafts of earnest money on behalf of Darshan Lal and his sons-Rajesh Kumar and Sanjeev Kumar were issued by that very bank on the same day from the accounts of Darshan Lal and Rajesh Kumar. The respondents have alleged that all this establishes the complicity of Darshan Lal and the petitioners are acting at his behest. The process of tender followed by the Corporation in awarding contracts to respondent no.2 has also been stated to be in order.

The petitioners filed the rejoinders to the written statements of the respondents, but did not say a word about the aforementioned averments alleging the illegal involvement of Darshan Lal in the tender process.

After hearing the learned counsel for the parties and perusing the record, we are satisfied that the bids of the petitioners pursuant to the tender process initiated by the Corporation were not bona fide and in view of this, no equitable relief can be granted to them. The respondents have successfully demonstrated that the petitioners were acting on behalf of the aforesaid Darshan Lal and, thus, their bids were tainted. Moreover, the petitioners have not been able to show any infirmity in the tender process adopted by the Corporation and, therefore, they cannot question the awarding of tenders to respondent no.2.

Consequently, the writ petitions, being devoid of any merit, are dismissed.

(Vijender Jain)
Chief Justice

December 11,2007
"SCM"

(Mahesh Grover)
Judge